

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE**

**IN RE: JOINT PETITION OF TEC)
COMPANIES AND THE CONSUMER)
ADVOCATE DIVISION FOR APPROVAL)
OF EARNINGS REVIEW SETTLEMENT)**

Docket No. 00-00995 99-00995

ATTORNEY GENERAL'S REPLY BRIEF

The Attorney General of the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter for the State of Tennessee ("Attorney General"), submits this reply to the response of AT&T to the Attorney General's "Motion for Summary Judgment Dismissing AT&T's Complaint Against TEC's Proposed Rate Design Because AT&T's Proposed Design Is Not in the Public Interest Or, in the Alternative, for Transfer to the Access Charge Reform Docket."

I. THE ATTORNEY GENERAL'S MOTION IS PROPER

In support of its motion, the Attorney General asks that the Tennessee Regulatory Authority ("Authority") take note of Authority Rule 1220-1-2-.06(1). The Authority's Practice and Procedure Rules, while not directly referencing the use of summary judgment motions, certainly allow for decisions on the merits in a contested case when presented as a written preliminary motion. Such a motion seeks relief that is no less summary, and no less dispositive. It is incumbent on the responding party to demonstrate, without reliance on unsupported broad statements, that a genuine dispute as to the material facts exists. In this case, AT&T fails in its

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response to address the particular facts at issue. Moreover, AT&T fails to articulate and support any reason supporting its participation in this docket. Faced with the Attorney General's motion, AT&T is obligated to produce facts supporting its position and may not simply rely on the allegations of its petition. If AT&T truly believes there are "relevant circumstances" material to the issues raised in the Attorney General's motion beyond that set out in Terry Buckner's affidavit and existing in the record before the Authority, AT&T must present such.

II. MERITS OF THE MOTION

All laws, whether created by legislation or judicial action, are driven by some underlying policy, good or bad. "Administrative policy" is no different. This Authority seeks to perform its duties consistent with the legislature's intent as interpreted by this Authority or the judiciary. In doing so, the Authority relies on the law, the facts and its own policy, which certainly include its own established policies. Consequently, AT&T is bound by the Authority's May 25, 1999 Order in the Access Charge Reform Docket, No. 97-00889.

The Attorney General and AT&T agree that the present case is "separate and distinct" from the Access Charge Reform Docket. The present case is all about the TEC companies and the money they owe their customers. Reducing AT&T's access rates has little to do with this focus. Instead, AT&T attempts to do here what it was denied earlier, gain a competitive advantage through access rate reduction in this docket when all other IXCs must wait for the conclusion of the Access Charge Reform Docket. AT&T's approach is much less subtle than it would like. As noted by AT&T, the present "proceeding and the generic access charge proceeding have different purposes, involve different parties [in that it is more inclusive], and

raise different issues.” This is an over-earnings matter. AT&T’s interest in reducing access charges belongs in the Access Charge Reform Docket. Transferring AT&T’s claims to that docket will in no way prejudice its interests.

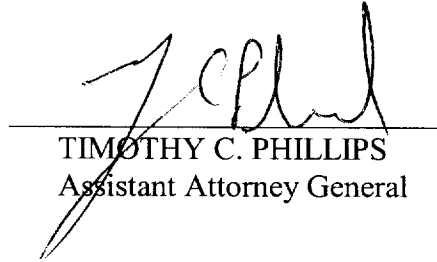
RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "T. C. Phillips", is written over a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 19, 2001, an exact copy of the foregoing was mailed, via U.S. Mail, postage prepaid, to **Val Sanford, Esq.**, Gullett, Sanford, Robinson & Martin, PLLC, 230 Fourth Avenue North, 3rd Floor, P.O. Box 198888, Nashville, TN 37219-8888; and **T.G. Pappas, Esq. and R. Dale Grimes, Esq.**, Bass, Berry & Sims, 2700 First American Center, 313 Deaderick Street, Nashville, TN 37238-2700.



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